

Financial Disclosure by Executive Employees Relevant Statutes

2 MRSA §5

Acceptance of gifts

The Governor is authorized to accept in the name of the State any and all gifts, bequests, grants or conveyances to the State of Maine.

No other state official or any member of any other branch of State Government may accept any gift, grant or conveyance to the State or to that branch of government, with a value greater than \$50, unless specifically authorized to do so by law or by clear implication of law, or unless empowered to do so by the Governor.

5 MRSA §19

Financial Disclosure by Executive Employees

1. **Definitions.** As used in this section, unless the context indicates otherwise, the following terms have the following meanings.
 - A. "Appointed executive employee" means a compensated member of the classified or unclassified service employed by the Executive Branch, who is appointed by the Governor and confirmed by the Legislature, or who serves in a major policy-influencing position, except assistant attorneys general, as set forth in chapter 71.
 - B. "Constitutional officers" means the Governor, Attorney General, Secretary of State and Treasurer of State.
 - C. "Elected executive employee" means the constitutional officers and the State Auditor.
 - D. "Executive employee" means an appointed executive employee or an elected executive employee.
 - E. "Gift" means anything of value, including forgiveness of an obligation or debt, given to a person without that person providing equal or greater consideration to the giver. "Gift" does not include:
 - (1) Gifts received from a single source during the reporting period with an aggregate value of \$300 or less;
 - (2) A bequest or other form of inheritance; and
 - (3) A gift received from a relative.
 - F. "Honorarium" means a payment of money or anything with a monetary resale value to a person for an appearance or a speech by the person. "Honorarium" does not include reimbursement for actual and necessary travel expenses for an appearance or speech. "Honorarium" does not include a payment for an appearance or a speech that is unrelated to the person's official capacity or duties.
 - G. "Immediate family" means a person's spouse or dependent children.
 - H. "Income" means economic gain to a person from any source, including, but not limited to, compensation for services, including fees, commissions and payments in-kind; income derived from business; gains derived from dealings in property, rents and royalties; income from investments including interest, capital gains and dividends; annuities; income from life insurance and endowment contracts; pensions; income from discharge of indebtedness; distributive share of partnership income; income from an interest in an estate or trust; prizes; and grants, but does not include gifts. Income received in-kind includes, but is not limited to, the transfer of property and options to buy or lease and stock certificates. Income does not include alimony and separate maintenance payments.
 - I. "Relative" means an individual who is related to the executive employee or the executive employee's spouse as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother or half sister, and shall be deemed to include the fiancé or fiancée of the executive employee.
 - I-1. "Reportable liabilities" means any unsecured loan, except a loan made as a campaign contribution recorded as required by law, of \$3,000 or more received from a person not a relative. Reportable liabilities do not include:
 - (1) A credit card liability;
 - (2) An educational loan made or guaranteed by a governmental entity, educational institution or nonprofit organization; or
 - (3) A loan made from a state or federally regulated financial institution for business purposes.
 - J. "Self-employed" means that the person qualifies as an independent contractor under Title 39-A, section 102, subsection 13.

2. Statement of sources of income. Each executive employee shall annually file with the Secretary of State a sworn and notarized statement of finances for the preceding calendar year. The statement shall indicate:

- A. If the executive employee is an employee of another person, firm, corporation, association or organization, the name and address of the employer and each other source of income of \$1,000 or more;
- B. If the executive employee is self-employed, the name and address of the executive employee's business and the name of each source of income derived from self-employment that represents more than 10% of the employee's gross income or \$1,000, whichever is greater, provided that, if this form of disclosure is prohibited by statute, rule, or an established code of professional ethics, the employee shall specify the principal type of economic activity from which the income is derived. With respect to all other sources of income, a self-employed executive employee shall name each source of income of \$1,000 or more. The employee shall also indicate major areas of economic activity and, if associated with a partnership, firm, professional association, or similar business entity, the major areas of economic activity of that entity;
- C. The specific source of each gift received;
- D. The type of economic activity representing each source of income of \$1,000 or more that any member of the immediate family of the executive employee received;
- E. The name of each source of honoraria that the executive employee accepted;
- F. Each executive branch agency before which the executive employee or any immediate family member has represented or assisted others for compensation; and
- G. Each executive branch agency to which the executive employee or the employee's immediate family has sold goods or services with a value in excess of \$1,000.

In identifying the source of income, it shall be sufficient to identify the name and address and principal type of economic activity of the corporation, professional association, partnership, financial institution, nonprofit organization or other entity or person directly providing the income to the individual.

With respect to income from a law practice, it shall be sufficient for attorneys-at-law to indicate their major areas of practice and, if associated with a law firm, the major areas of practice of the firm.

3. Time for filing.

- A. An elected executive employee shall file an initial report within 30 days of his election. An appointed executive employee shall file an initial report prior to confirmation by the Legislature.
- B. Each executive employee shall file the annual report prior to the close of the 2nd week in April, unless that employee has filed an initial or updating report during the preceding 30 days; except that, if an elected or appointed executive employee has already filed a report for the preceding calendar year pursuant to paragraph A, a report does not need to be filed.
- C. Each executive employee whose income substantially changes shall file a report of that change within 30 days of it.

4. Penalties. Failing to file the statement, within 15 days of having been notified by the Secretary of State of failing to meet the requirements of subsection 2, is a civil violation for which a forfeiture of not more than \$100 may be adjudged.

5. Rules. The Secretary of State may adopt or amend rules to specify the reportable categories or types and the procedures and forms for reporting and to administer this section.

6. Public record. Statements filed under this section are public records.

7. Disclosure of reportable liabilities. Each executive employee shall include on the statement of income under subsection 2 all reportable liabilities incurred while employed as an executive employee. The executive employee shall file a supplementary statement with the Secretary of State of any reportable liability within 30 days after it is incurred. The report must identify the creditor in the manner of subsection 2.

17-A MRSA Chapter 25

§601. Scope of chapter

Nothing in this chapter shall be construed to prohibit the giving or receiving of campaign contributions made for the purpose of defraying the costs of a political campaign. No person shall be convicted of an offense solely on the evidence that a campaign contribution was made, and that an appointment or nomination was subsequently made by the person to whose campaign or political party the contribution was made.

§602. Bribery in official and political matters

1. A person is guilty of bribery in official and political matters if:

- A. He promises, offers, or gives any pecuniary benefit to another with the intention of influencing the other's action, decision, opinion, recommendation, vote, nomination or other exercise of discretion as a public servant, party official or voter;
 - B. Being a public servant, party official, candidate for electoral office or voter, he solicits, accepts or agrees to accept any pecuniary benefit from another knowing or believing the other's purpose to be as described in paragraph A, or fails to report to a law enforcement officer that he has been offered or promised a pecuniary benefit in violation of paragraph A; or
 - C. That person promises, offers or gives any pecuniary benefit to another with the intention of obtaining the other's signature on an absentee ballot under Title 21-A, chapter 9, subchapter IV, or referendum petition under Title 21-A, chapter 11, or that person solicits, accepts or agrees to accept any pecuniary benefit from another knowing or believing the other's purpose is to obtain that person's signature on an absentee ballot or referendum petition, or fails to report to a law enforcement officer that the person has been offered or promised a pecuniary benefit in violation of this paragraph.
2. As used in this section and other sections of this chapter, the following definitions apply.
- A. A person is a "candidate for electoral office" upon his public announcement of his candidacy.
 - B. "Party official" means any person holding any post in a political party whether by election, appointment or otherwise.
 - C. "Pecuniary benefit" means any advantage in the form of money, property, commercial interest or anything else, the primary significance of which is economic gain; it does not include economic advantage applicable to the public generally, such as tax reduction or increased prosperity generally. "Pecuniary benefit" does not include the following:
 - (1) A meal, if the meal is provided by industry or special interest organizations as part of an informational program presented to a group of public servants;
 - (2) A meal, if the meal is a prayer breakfast or a meal served during a meeting to establish a prayer breakfast; or
 - (3) A subscription to a newspaper, news magazine or other news publication.
3. Bribery in official and political matters is a Class C crime.

§603. Improper influence

- 1. A person is guilty of improper influence if he:
 - A. Threatens any harm to a public servant, party official or voter with the purpose of influencing his action, decision, opinion, recommendation, nomination, vote or other exercise of discretion;
 - B. Privately addresses to any public servant who has or will have an official discretion in a judicial or administrative proceeding any representation, argument or other communication with the intention of influencing that discretion on the basis of considerations other than those authorized by law; or
 - C. Being a public servant or party official, fails to report to a law enforcement officer conduct designed to influence him in violation of paragraphs A or B.
- 2. "Harm" means any disadvantage or injury, pecuniary or otherwise, including disadvantage or injury to any other person or entity in whose welfare the public servant, party official or voter is interested.
- 3. Improper influence is a Class D crime.

§604. Improper compensation for past action

- 1. A person is guilty of improper compensation for past action if:
 - A. Being a public servant, he solicits, accepts or agrees to accept any pecuniary benefit in return for having given a decision, opinion, recommendation, nomination, vote, otherwise exercised his discretion, or for having violated his duty; or
 - B. He promises, offers or gives any pecuniary benefit, acceptance of which would be a violation of paragraph A.
- 2. Improper compensation for past action is a Class D crime.

§605. Improper gifts to public servants

- 1. A person is guilty of improper gifts to public servants if:
 - A. Being a public servant that person solicits, accepts or agrees to accept any pecuniary benefit from a person if the public servant knows or reasonably should know that the purpose of the donor in making the gift is to influence the public servant in the performance of the public servant's official duties or vote, or is intended as a reward for action on the part of the public servant; or
 - B. He knowingly gives, offers, or promises any pecuniary benefit prohibited by paragraph A.
- 2. Improper gifts to public servants is a Class E crime.

§606. Improper compensation for services

1. A person is guilty of improper compensation for services if:
 - A. Being a public servant, he solicits, accepts or agrees to accept any pecuniary benefit in return for advice or other assistance in preparing or promoting a bill, contract, claim or other transaction or proposal as to which he knows that he has or is likely to have an official discretion to exercise; or
 - B. He gives, offers or promises any pecuniary benefit, knowing that it is prohibited by paragraph A.
2. Improper compensation for services is a Class E crime.

§607. Purchase of public office

1. A person is guilty of purchase of public office if:
 - A. He solicits, accepts or agrees to accept, for himself, another person, or a political party, money or any other pecuniary benefit as compensation for his endorsement, nomination, appointment, approval or disapproval of any person for a position as a public servant or for the advancement of any public servant; or
 - B. He knowingly gives, offers or promises any pecuniary benefit prohibited by paragraph A.
2. Purchase of public office is a Class D crime.

§608. Official oppression

1. A person is guilty of official oppression if, being a public servant and acting with the intention to benefit himself or another or to harm another, he knowingly commits an unauthorized act which purports to be an act of his office, or knowingly refrains from performing a duty imposed on him by law or clearly inherent in the nature of his office.
2. Official oppression is a Class E crime.

§609. Misuse of information

1. A person is guilty of misuse of information if, being a public servant and knowing that official action is contemplated, or acting in reliance on information which he has acquired by virtue of his office or from another public servant, he:
 - A. Acquires or divests himself of a pecuniary interest in any property, transaction or enterprise which may be affected by such official action or information; or
 - B. Speculates or wagers on the basis of such official action or information; or
 - C. Knowingly aids another to do any of the things described in paragraphs A and B.
2. Misuse of information is a Class E crime.

39-A MRSA §102**Definitions ...**

13. Independent contractor. "Independent contractor" means a person who performs services for another under contract, but who is not under the essential control or superintendence of the other person while performing those services. In determining whether such a relationship exists, the board shall consider the following factors:

- A. Whether or not a contract exists for the person to perform a certain piece or kind of work at a fixed price;
- B. Whether or not the person employs assistants with the right to supervise their activities;
- C. Whether or not the person has an obligation to furnish any necessary tools, supplies and materials;
- D. Whether or not the person has the right to control the progress of the work, except as to final results;
- E. Whether or not the work is part of the regular business of the employer;
- F. Whether or not the person's business or occupation is typically of an independent nature;
- G. The amount of time for which the person is employed; and
- H. The method of payment, whether by time or by job.

In applying these factors, the board may not give any particular factor a greater weight than any other factor, nor may the existence or absence of any one factor be decisive. The board shall consider the totality of the relationship in determining whether an employer exercises essential control or superintendence of the person.